

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3140
Administrative Law Judge Division
October 7, 2004

R E S O L U T I O N

RESOLUTION ALJ 176-3140. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____, the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3140 (10/7/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-09-020 NEWPATH NETWORKS, LLC, for registration as an interexchange carrier telephone corporation, pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A04-09-021 LEONARD SOLONIUK/LINDA RUCKLE-SOLONIUK, PACIFIC GAS AND ELECTRIC COMPANY, a California Corporation, and Leonard Soloniuk and Linda Ruckle-Soloniuk, as individuals, for an Order authorizing the sale and conveyance of a certain parcel of land in Shasta County pursuant to Public Utilities Code Section 851.	Ratesetting	Ratesetting	NO
A04-09-022 CITY OF REDDING, PACIFIC GAS AND ELECTRIC COMPANY, a California Corporation, and the City of Redding, a Municipal Corporation of the State of California, for an Order authorizing the sale and conveyance of a certain parcel of land in Shasta County pursuant to Public Utilities Code Section 851.	Ratesetting	Ratesetting	NO
A04-09-024 MAHINE MOGHADDAM, dba E-Z AIRPORT SHUTTLE, for a Passenger Stage Certificate consistent with Public Utilities Code Sections 226 and 1031 to conduct an on-call airport shuttle service points in Orange County, on the one hand, and John Wayne Airport (SNA), on the other hand; and for a Zone of Rate Freedom pursuant to Public Utilities Code Section 454.2.	Ratesetting	Ratesetting	NO
A04-09-025 BABAKAN, MOHAMMAD R., dba INNER-STATE, for Approval of the transfer by sale of the Operating Authority held by Mohammad R. Babakan dba Inner-State in Passenger Stage Corporation Certificate PS 6892 to R Transportation Services, Inc., dba Inner-State pursuant to the provisions of Public Utilities Code Section 851 et seq.	Ratesetting	Ratesetting	NO
A04-09-027 FLORA COM, LLC, for a certificate of public convenience and necessity to provide InterLATA and intraLATA interexchange services and competitive local exchange services as a reseller.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3140 (10/7/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-09-028 CALIFORNIA WATER SERVICE COMPANY, for an order authorizing it to increase rates charged for water service in the Chico District by \$2,614,975 or 24.20% in fiscal 2005 - 2006; \$603,000 or 4.46% in fiscal 2006 - 2007; and \$603,000 or 4.27% in fiscal 2007 - 2008. (TEND 0504)	Ratesetting	Ratesetting	YES
A04-09-029 CALIFORNIA WATER SERVICE COMPANY, for an order authorizing it to increase rates charged for water service in the Visalia District by \$2,687,602 or 24.80% in fiscal 2005 - 2006; \$657,700 or 4.82% in fiscal 2006 - 2007; and \$657,700 or 4.60% in fiscal 2007 - 2008. (TEND 1204)	Ratesetting	Ratesetting	YES
A04-09-030 CALIFORNIA WATER SERVICE, for an order authorizing it to increase rates charged for water service in the Livermore District by \$1,431,794 or 12.79% in fiscal 2005 - 2006; \$571,400 or 4.50% in fiscal 2006 - 2007; and \$571,400 or 4.31% in fiscal 2007 - 2008.	Ratesetting	Ratesetting	YES
A04-09-031 CALIFORNIA WATER SERVICE, for an order authorizing it to increase rates charged for water service in the Stockton District by \$5,548,973 or 28.73% in fiscal 2005 - 2006; \$1,497,100 or 6.01% in fiscal 2006 - 2007; and \$1,497,100 or 5.6% in fiscal 2007 - 2008.	Ratesetting	Ratesetting	YES
A04-09-032 CALIFORNIA WATER SERVICE, for an order authorizing it to increase rates charged for water service in the Salinas District by \$5,864,045 or 47.91% in fiscal 2005 - 2006; \$1,298,400 or 7.13% in fiscal 2006 - 2007; and \$1,298,400 or 6.65% in fiscal 2007 - 2008.	Ratesetting	Ratesetting	YES
A04-09-033 CALIFORNIA WATER SERVICE, for an order authorizing it to increase rates charged for water service in the Mid-Peninsula District by \$3,226,964 or 15.15% in fiscal 2005 - 2006; \$599,600 or 2.44% in fiscal 2006 - 2007; and \$599,600 or 2.39% in fiscal 2007 - 2008.	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3140 (10/7/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-09-034 CALIFORNIA WATER DISTRICT, for an order authorizing it to increase rates charged for water service in the Los Altos-Suburban District by \$2,911,936 or 19.58% in fiscal 2005 - 2006; \$596,500 or 3.35% in fiscal 2006 - 2007; and \$596,500 or 3.24% in fiscal 2007 - 2008.	Ratesetting	Ratesetting	YES
A04-09-035 CALIFORNIA WATER SERVICE COMPANY, for an order authorizing it to increase rates charged for water service in the East Los Angeles District by \$2,219,737 or 12.15% in fiscal 2005 - 2006; \$474,500 or 2.32% in fiscal 2006 - 2007; and \$474,500 or 2.26% in fiscal 2007 - 2008. (TEND 0604)	Ratesetting	Ratesetting	YES
A04-09-036 TRAN HOA, dba GENERAL AIRPORT SHUTTLE, for authority to operate as an on-call passenger stage corporation between points in Santa Clara, San Francisco, Alameda, Contra Costa, and Marin Counties and San Jose, San Francisco, and Oakland International Airports and to establish a zone of rate freedom.	Ratesetting	Ratesetting	NO
A04-09-037 CALIFORNIA-AMERICAN WATER COMPANY (U 210-W), pursuant to Decision 04-07-035 deferring request for an immediate Moratorium in its Monterey District.	Ratesetting	Ratesetting	NO
A04-10-001 POWER TELECOMM, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A04-10-002 PACIFIC PIPELINE SYSTEM LLC, for authorization to increase its rates and charges for Crude Oil Transportation Services on its Line 63 System, effective November 1, 2004.	Ratesetting	Ratesetting	YES
A04-10-003 SOUTHERN CALIFORNIA WATER COMPANY (U 133-E), for an Order authorizing it to increase rates for electric service in its Bear Valley Electric Service Division to recover the costs of the new 8.4 MW Generator Facility.	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3140 (10/7/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-10-004 SOUTHERN CALIFORNIA EDISON COMPANY, for order approving power purchase agreement between Southern California Edison Company and Reliant Energy Etiwanda, Inc.	Ratesetting	Ratesetting	NO
A04-10-007 SAN DIEGO GAS & ELECTRIC COMPANY, for adoption of its 2005 Energy Resource Recovery Account (ERRA) Forecast Revenue Requirement, Review of its Power Procurement Balancing Account, and Approval of its 2004 ERRA Trigger Amount.	Ratesetting	Ratesetting	NO